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C O N F I D E N T I A L SECTION 01 OF 02 KATHMANDU 002217

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SUBJECT: ICJ GENERAL SECRETARY UNDERScores CONTINUED
DIFFICULTIES IN NEPAL

REF: A. KATHMANDU 2185

1B. KATHMANDU 2145

1C. KATHMANDU 2123

Classified By: Ambassador James F. Moriarty; Reasons 1.4 (b/d).

SUMMARY

1. (C) In a recent meeting with the Ambassador, Nicholas Howen, International Commission of Jurists (ICJ), stressed the importance of protecting human rights in what could potentially become an increasingly repressive environment in Nepal. The Ambassador and Howen discussed possibilities of prolonging the Maoists' three-month unilateral ceasefire, agreeing that the UN's Office of the High Commissioner for Human Rights (OHCHR) would be the best monitoring body if the international community could convince the Maoists to sign a Human Rights Code of Conduct. Howen commended the Ambassador for his recent strong stance against provisions within His Majesty's Government of Nepal's (HMGN) draft NGO Code of Conduct. Howen noted that the only good news coming out of Nepal was an increasingly independent judiciary, which the ICJ hoped to support in its efforts to improve rule of law and the ability to prosecute cases to the fullest extent.
END SUMMARY.

THE KING AND THE PARTIES: WILL THE WEDDING EVER TAKE PLACE?

2. (C) In their September 30 meeting, the Ambassador informed Nicholas Howen, ICJ General Secretary, that, since February 1, the USG had encouraged the King to release detainees, reach out to the parties, and restore civil liberties. While the Palace had addressed the first and third recommendations, the second was the "toughest," the Ambassador stated, as it required a decision to step back from power. Between the King's expansion of the Cabinet in late July and his conviction of former Prime Minister Deuba on what many believed to be politically-motivated corruption charges, it appeared that the King had no intention of reaching out to the Parties. Vice Chairman Giri's latest comments regarding the Constitution as an obstacle to the Palace's post-February 1 goals further indicated the King's lack of interest in collaborating with the political parties (ref C). While there was a great deal of bravado among the top leadership of the parties, the Ambassador commented, it was clear they were scared of the Maoists. Despite the fact that Parties remained skeptical of Maoist intentions, they might "hop into bed with the Maoists," Howen and the Ambassador agreed. The Maoists' unilateral ceasefire remained "mixed," as the Maoists had not allowed the parties into the villages as promised, and abductions and extortion had actually increased. The Ambassador noted that the biggest victors from February 1 were the Maoists, as they had gained the most and the RNA was weaker today than before the royal takeover.

ICJ'S CONCERNS: PROTECTING HUMAN RIGHTS AND PROLONGING THE
CEASEFIRE

3. (C) Howen stated that the ICJ had two primary concerns in Nepal. The first was human rights-related, namely how to ensure people would be protected within an increasingly repressive political milieu. Howen commented that we had to learn our lessons from February 1 and be prepared for a situation in which increasing numbers of people might seek asylum. Howen revealed that he had discussed with Ian Martin, the OHCHR Resident Representative, the role Embassies might play in such a scenario. Communities at risk, such as representatives of human rights organizations and political parties, were already self-identified, Howen noted, and were looking to the United Nations and the diplomatic community for what help they might offer if Nepal had another repressive state of emergency similar to the situation after the February 1 royal takeover. Howen cautioned that the Embassy, along with the rest of Nepal's diplomatic community, should prepare for a "February-style crackdown" and the various scenarios (such as demonstrations, mass arrests, etc.) that could potentially follow.

14. (C) Another issue of great importance to the ICJ, Howen stressed, was how to make the Palace reciprocate the Maoists' unilateral ceasefire and make it long-term. He noted that perhaps the Maoists could be convinced to sign a Human Rights Code of Conduct to show their sincerity; OHCHR could then monitor it. The Ambassador noted that MK Nepal, leader of the United Marxist-Leninist (UML) Party, had advocated that the Maoists agree to such a code of conduct, which would allow political parties and civil society back into the villages. Signing a code of conduct would allow the Maoists to show that they were taking political initiative, which in turn might push the King to respond. The Ambassador stated that Nepalese were still "scared to death" to report Maoist atrocities, citing the September 28 briefing by the Nepal Human Rights Commission in which reports of disappearances by government security forces outnumbered abductions by the Maoists (ref A). This argued that an OHCHR presence on the ground would be a better monitoring mechanism.

15. (C) The Ambassador revealed that there was a proposal to ask the King to respond to the Maoists' unilateral ceasefire and request the United Nations to monitor such a ceasefire (ref B). It would be great if this could happen, he continued, but it was unlikely that the King would respond. Moreover, the Maoists were unlikely to respond. They were unpopular in much of the country; giving up violence would therefore erode their influence in the countryside.

DRAFT NGO CODE OF CONDUCT

16. (C) Howen commended the Ambassador for his strong stance regarding HMGN's draft Code of Conduct for nongovernmental organizations (NGOs). The head of the SWC, the Ambassador replied, had assured the Embassy already that agreements between governments and donors would take precedence and the SWC would not attempt to override them. The Embassy had also strongly disagreed with the secrecy clauses in the Code of Conduct.

INDEPENDENCE OF THE JUDICIARY

17. (C) Perhaps the only good news coming out of Nepal these days, Howen asserted, was the increasing independence of the Supreme Court and its willingness to stand up to the government. The Supreme Court, in the last six months, had shown it was becoming stronger, and this was filtering down to the appellate courts. Howen told the Ambassador that the ICJ had encouraged the Chief Justice to take two of the strongest re-arrest cases and "follow them through to the end." This would be the "next step" in the independence of the judiciary, Howen stressed. Another challenge, the Ambassador underscored, was how to enable the courts to try the Maoists.

18. (C) Howen explained that the ICJ planned to bring a senior human rights lawyer to Nepal to work with lawyers in the districts in order to help improve the broader rule of law context of the re-arrest issue. The ICJ was also interested in conducting more research on the Maoists' parallel justice system in order to better understand the Maoist courts and their excesses.

COMMENT

19. (C) Given the government's lack of action to bridge its differences with the Parties, Post agrees with Howen's assessment that we should consider the worst case scenarios. Ground reality calls for the international community to consider how to handle asylum and refugee seekers should the situation worsen.

MORIARTY